



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,960	08/20/2003	Stephen C. Bytnar	1533.6310004	4977
26111	7590	11/30/2004		
STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005				
			EXAMINER GREEN, ANTHONY J	
			ART UNIT 1755	PAPER NUMBER

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/643,960

Applicant(s)

BYTNAR, STEPHEN C.

Examiner

Anthony J. Green

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-57 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 46-57 is/are rejected.
- 7) ☒ Claim(s) 53 and 57 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/12/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____

DETAILED ACTION

Response to Preliminary Amendment

1. The preliminary amendment has been entered. Currently claims 46-57 are pending. Applicant's amendment to the specification appears to contain incorrect continuity data as applicant states that this application is a continuation of 10/260,255 which appears to be incorrect as that application number does not refer to a deicing solution. It is believed that the correct number is 10/260,225. Applicant needs to correct this information on their application data sheet and request a correct filing receipt showing the correct application number. Also it should be noted that this application does not appear to be a proper continuation as these claims do not appear to be supported by the specification as originally filed. Accordingly new matter rejections appear below.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 46-57 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

The claims added by the preliminary amendment lack literal support (i.e. antecedent basis) in the specification as originally filed. For example the amounts and the types of the carbohydrate components (glucose, fructose etc.) and their corresponding molecular weights are not recited in the specification. Also no support for the amount of the acetate component can be seen as well as the amount of the thickener. No mention of a colorant is seen in the specification. No mention of sodium acetate is found in the specification. Accordingly the claims as added by preliminary amendment lack support in the specification as originally filed and accordingly they are considered new matter.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 46-57 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Hartley et al (US Patent No. 6,436,310).

The instant claims are identical to the claims of the Hartley et al patent.

Applicant states that the claims are copied from the Hartley et al reference. If applicant is intending to invoke an interference it should be noted that no interference can be declared until allowable subject matter is found.

6. Claims 46-57 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Hartley et al (US Patent No. 6,599,440).

The reference teaches, in claims 11-13, a composition that encompasses that which is instantly claimed. It should be noted that applicant's use of the term "comprising" opens the claim to the addition of other components and therefore the instant claims are taught by the reference.

7. Claims 46, 49-50, 53-54 and 57 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Hartley et al (US Patent No. 6,440,325).

The reference teaches, in claims 12, 14, 18 and 20, a composition that encompasses that which is instantly claimed. It should be noted that applicant's use of the term "comprising" opens the claim to the addition of other components and therefore the instant claims are taught by the reference.

8. Claims 46-57 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Hartley et al (US Patent Application Publication No. 2003/0209690).

The reference teaches, in claims 10-12, a composition that encompasses that which is instantly claimed. It should be noted that applicant's use of the term

"comprising" opens the claim to the addition of other components and therefore the instant claims are taught by the reference.

Claim Objections

9. Claims 53 and 57 are objected to because of the following informalities: In line 1 of these claims the term "th" should be -- the --. Appropriate correction is required.

Oath/Declaration

10. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:
Non-initialed and/or non-dated alterations have been made to the oath or declaration. See 37 CFR 1.52(c).


Information Disclosure Statement

11. The remaining references have been considered however they are not seen to teach and/or fairly suggest the instant invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony J. Green whose telephone number is 571-272-1367. The examiner can normally be reached on Monday-Thursday 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark L. Bell can be reached on 571-272-1362. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Anthony J. Green
Primary Examiner
Art Unit 1755

ajg
November 24, 2004